

STRATEGY PAPER
**FATA MERGER:
AN APPRAISAL-2024**



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Strategy Paper
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FATA MERGER: AN APPRAISAL - 2024

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Executive Summary

Established by the British colonial empire, FATA was granted a special administrative status which continued after Pakistan's independence in 1947. However, despite having a unique historical and tribal structure, the semi-autonomous tribal region was caught in cycles of instability. The protracted unrest was a direct result of the US invasion of Afghanistan and the subsequent operations by the country's armed forces in the region. This led to violence, mass displacement of people, delayed development of the region and alienation of the local population from the rest of the country.

To address the challenges to the region, “FATA Reform Committee Report 2016”, was released with a detailed list of objectives. The report suggested a phase-wise transition spread over five years with prior work on rehabilitation and development. Despite suggestions of first developing the capacity to support the transition, in 2018, FATA was merged with KP in haste through the 25th Constitutional Amendment. The rapid transition led to an overnight shift from a semi-autonomous tribal structure to its full integration into a provincial setup which created vacuums in the governance structures.

The challenges to the merger are deeply interrelated in which lack of finances is found to be the major impediment in the smooth execution of reforms. This has exacerbated the mistrust between the locals and the state. Due to this, a domino effect has been created, hence, further fuelling instability in the region. This paper therefore proposes to develop an overall inclusive approach encompassing simultaneous economic, political, administrative and social strategies which will help expedite the gains made. Some key findings of the study are:-

1. Mere constitutional reforms are not a guarantor of success.
2. There exists a gap between the pledged financial support and the actual funds received. This has led to the region's low HDI and slow socio-economic development.
3. Issues of ownership of land have led to prolonged violent disputes, thus impeding the economic development of the region.
4. As the region is abundant in natural resources, promoting indigenous economic development is crucial to fostering a sustainable financial ecosystem.
5. There exists poor coordination between departments on the implementation of the merger and this has aggravated the issue of governance facing the NMDs.
6. The situation in Afghanistan has direct implications on the security environment of the ex-FATA region. Therefore, only through trade with Afghanistan can long-term security be achieved.
7. The role of civil law-enforcement agencies is vital in bringing long-term stability to the region.
8. Fissures of mistrust between the locals and the government need to be addressed and for greater acceptability, an effective narrative surrounding the dividends of the merger should be built to counter the “anti-merger elements”.

FATA MERGER: AN APPRAISAL-2024

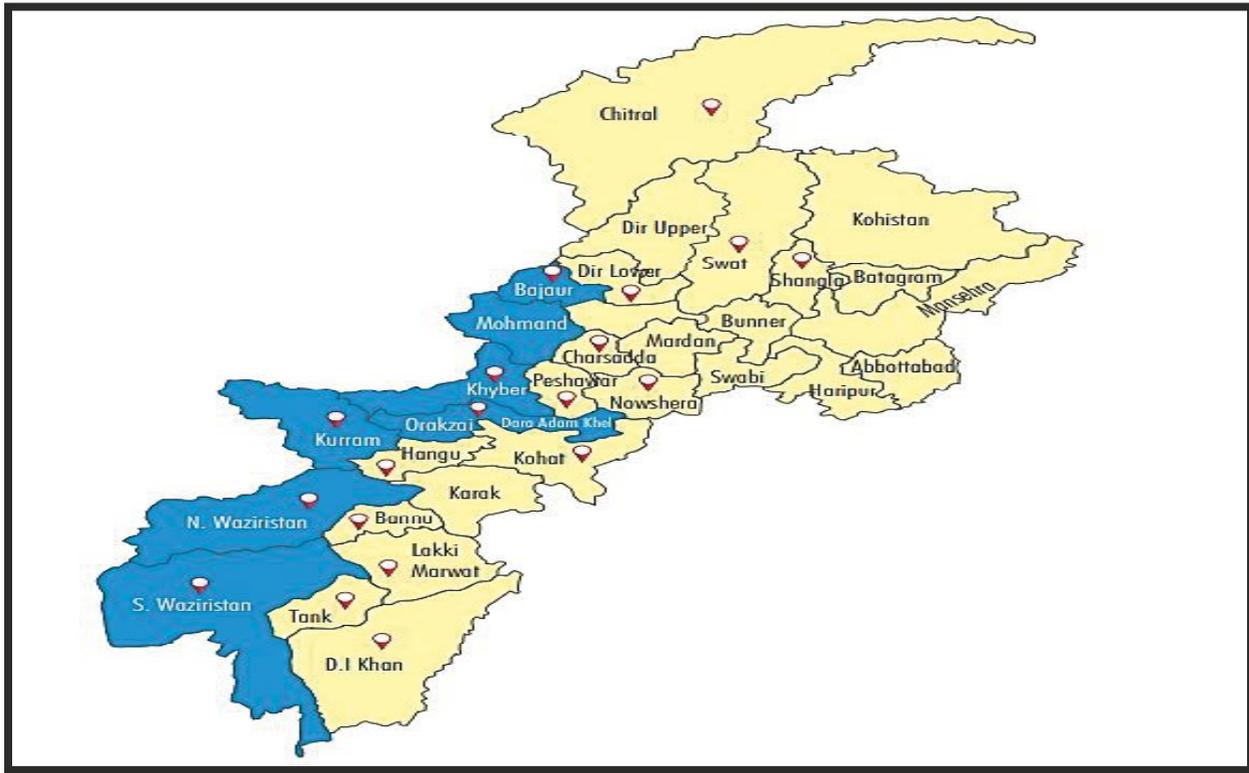


Figure 1: Map of erstwhile FATA

Introduction

Located along Pakistan's Northwestern border with Afghanistan, the erstwhile Federally Administered Tribal Areas (FATA) is spread across an area of 27,220 sq km¹ and comprises seven agencies (Bajaur, Mohmand, Khyber, Kurram, Orakzai, North Waziristan and South Waziristan) and six frontier regions adjoining the Peshawar, Kohat, Bannu, Lakki Marwat, Tank and Dera Ismail Khan districts. According to the Pakistan Bureau of Statistics (PBS) 2023, the region was estimated to have a population of more than 7 million people.² Despite hosting a vast population, the region has faced neglect and instability for decades.

Historically, the first Frontier Crime Regulation (FCR) was introduced in 1872 after the British closely studied the tribal culture. Punjab Frontier Crimes Regulation 1887 replaced this. Later, over time, gaps were identified and a revised version of this law was introduced as FCR, in 1901. FCR continued to rule the area after Pakistan's independence in 1947. The situation aggravated following the events of 9/11, when militants from neighbouring Afghanistan, fleeing the US invasion began to settle in the semi-autonomous region, thus disrupting the century's

old power structure prevalent amongst the tribes. Understanding, the impact of the deteriorating security situation in FATA and the rest of the country, military operations were conducted in the region to quash militancy.

Since FATA had been grossly neglected for decades, the call for reforms from the political, civil and FATA chapters had already been gaining momentum.³ To mainstream FATA and to solidify the gains made in the military operations, through the 25th Constitutional Amendment, a bill was passed on 24th May 2018, to change the status of the region. The amendment, merged FATA with the province of Khyber Pakhtunkhwa (KP) with a five-year timeline to ensure its smooth implementation. Before the bill, in November 2015, a committee, headed by Mr. Sartaj Aziz, then Advisor to the Prime Minister on Foreign Affairs, was tasked to propose a way forward for the mainstreaming of FATA. The team members included:-

- Mr. Sartaj Aziz, Advisor to the Prime Minister on Foreign Affairs
- Mr. Zafar Iqbal Jhagra, Governor KP
- Lt. General (Retd) Abdul Qadir Baloch
- Mr Zahid Hamid, Minister for Law and Justice
- Lt. General Nasser Khan Janjua, National Security Advisor
- Mr. Muhammad Shehzad Arbab, Secretary SAFRON
- Sardar Mehtab Ahmed Khan, Former Governor KP (Stayed with the team until 2016)

To merge FATA with KP, the committee proposed the “FATA Reform Committee Report 2016”, which consisted of a detailed list of objectives and an implementation strategy, a feature that had been missing in the previous documents. This led to the formulation of the Tribal Decade Strategy 2020-2030 which focused on accelerated development programs to enhance the human development index, generate economic opportunities and improve livelihoods.⁴ Despite the comprehensive nature of FATA reforms, the implementation of the merger remained slow. This can be attributed to overlapping challenges, especially lack of finances and a deteriorating security situation.

November 2015	The committee on FATA reforms constituted
March 2018	FATA Reform Report finalization
May 2018	Constitutional Amendment for Merger of FATA and Frontier Regions
July 2018	Conduct of General Elections
August 2019	Finalization of Tribal Decade Strategy – Cabinet approval

Table 1: Timeline of FATA’s Merger with KP

Current Status of the Key Objectives of the Report on FATA Reform Committee 2016

Since FATA's merger with KP, lack of data has made it difficult to gauge the progress of reforms. This has given the anti-merger elements space to spin a skewed narrative. It has therefore become important to quantify the current status of each objective.

Serial No.	Objectives	Progress
1	Restoration of durable peace in all parts of FATA, rehabilitation of Temporarily Dislocated Persons (TDPs) and reconstruction of infrastructure, houses and shops.	3, 52,752 families have returned while 17,445 remain displaced. Almost 95% Complete (However, a dispute exists between the various provincial departments about the total number of resettled TDPs)
2	Initiating a major program of socio-economic development.	1618 development projects had been initiated, out of which 923 are complete. Almost 57% Complete
3	Establishing elected local bodies in FATA before the end of 2017, would address alienation of the tribesman that will enhance his faith in the State.	Local body elections were held in December 2021 after which, 4977 members were elected. Election councils have been established in 711 villages and the Local Government Act of 2013 has been extended to the NMDs. Complete
4	Introduction of judicial reforms to extend the jurisdiction of the Supreme Court and the High Court while retaining the Jirga system.	Land has been identified to form judicial complexes and relevant posts have been created. However, due to a worsening security situation, district courts are reluctant to perform their duties in the NMDs. Slow Progress (Not Enough Data to Quantify)
5	Capacity building of Law Enforcing Agencies (LEAs), especially Levies to enable them to perform normal policing functions.	Under the KP Khasadars Force Act 2019 and KP Levis Force Act 2019, 27,000 Levis and Khasadars from a total of 29,000 were formally integrated into KP Police in the first phase. ⁵ As per the data available, 73 police stations and 54 posts of police across NMDs are functional, with different ratios of Levis and Khasadars serving in different districts. DPOs/SPs investigations have also been posted in each district. Almost 93% Complete
6	Carrying out Land Settlement and preparing GIS-based computerized land records.	Out of the 27 districts, the digitization of land in 7 is complete. However, the physical demarcation of land has still not started. Almost 10% Complete
7	Capacity building of FC for efficient border management.	100 FC wings have been raised. (Not Enough Data to Quantify)

Table 2: Current Status of FATA Reforms

Gaps in Existing Literature

There exists abundant research on the subject, however, the current literature has been unable to spin a single narrative on FATA reforms which would have helped in countering misinformation. While most of the work rightfully critiques the government for its lags and delays, it fails to quantify in measurable terms what has been done so far and how to expedite the execution of reforms. In light of gaps in the existing literature, this paper aims to devise an overall inclusive approach which addresses challenges to the implementation of reforms while simultaneously addressing gaps in the literature.

Research Methodology

For the appraisal of the merger, various reports and documents were consulted and both qualitative and quantitative data were used to make deductions. To understand the region better, firsthand interviews were conducted with the youth belonging to the ex-FATA region. The interviews were semi-structured and focused on group discussions so that reliable and unbiased data could be obtained. A roundtable discussion on the subject was also conducted and it was attended by members of academia and youth.

In addition, the research visited; Corps Headquarters, civil administration and CM Secretariat, Peshawar, to meet individuals from relevant departments dealing with Newly Merged Districts (NMDs). Government reports were reviewed to add to the project's primary data bank. For secondary sources; newspaper articles, journal articles and online sources were consulted.

Sample Selection and Data Analysis

Individuals were given an open invitation to participate, however, the age group of 18-30 was given preference. Despite efforts to eliminate gender bias, only males participated in the study. To address ethical considerations, the participants were ensured anonymity and were made well aware of the purpose of the interview.

The interviews and discussions were transcribed. Periodically the sample composition was reviewed to ensure it aligns with your research objectives and adjust if necessary. Moreover, the data obtained from various sources was compiled and compared after which, the content analysis method was employed to identify patterns and make deductions.

Limitations of the Study

Despite access to various data sources, the study faced some constraints. The lack of availability of female participants for interviews, challenges to easy acquisition of data due to the sensitivity of the subject and the reluctance of participants to speak openly on the topic added to research limitations.

Action Plan to Overcome Challenges

On close analysis of the merger, the challenges faced by the former princely states of Malakand Division present a pattern similar to FATA. The region remained in turmoil for over twenty years owing to a lack of consensus amongst the elites and local population over the new system of governance. The slow delivery of services and the delay in the justice system led to widespread dissent and an enhanced sense of dissatisfaction amongst the locals. This created a rift between the state and the local population, thus fuelling militancy. This shows, mere constitutional and legal reforms are not the sole guarantor of success.

Originally, the FATA Reforms Committee Report 2016 suggested a phase-wise transition spread over five years with prior work on capacity-building of institutions. Despite deliberations, FATA was merged with KP in haste with little time for planning. Having little capacity to support reforms, the merger proposed a new order which became difficult for the locals to absorb in a short time. The institutions had been adhering to centuries-old traditions for their work, and once that changed overnight, a vacuum in governance was created.

It can, therefore, be inferred that the region currently faces a plethora of deeply interconnected challenges. To break the region from isolation and expedite the gains made, an action plan has been proposed to ensure that the impediments to the merger can be addressed simultaneously.

Financial Constraints

The Newly Merged Districts (NMDs) face significant financial constraints hindering their socio-economic development. The proposed plan had pledged an amount of Rs.21 billion/year from the Public Sector Development Programme (PSDP) and an additional 3% share from the National Finance Commission (NFC), amounting to almost Rs.90 billion, for the NMDs. However, the actual financial support seems to fall short of these commitments.

The NFC's 3% share to the NMDs has been 44.39%, indicating a substantial gap between the planned financial support and the actual funds received. This discrepancy has led to severe budget constraints as the government tries to balance various competing demands. As a result, the need for sufficient finances has been a significant factor in delaying the pace of socio-economic development in the region, thereby slowing down the implementation of reforms. The graph below illustrates the additional resource needs of the region based on projections of the commitments made and the developmental needs of the Merged Areas⁶:-

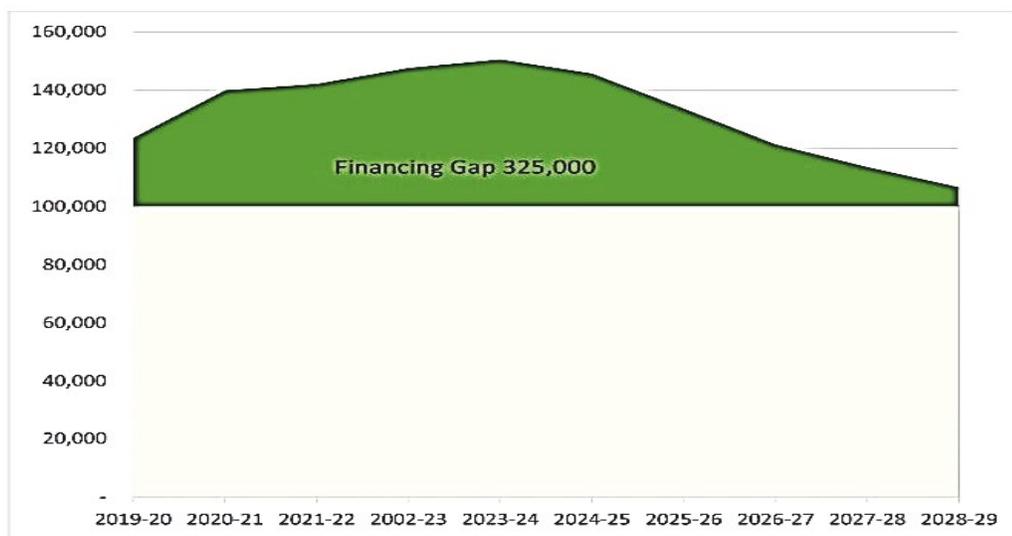


Figure 2: Resource Commitment and Financing Gaps in Rs. (Billions)⁷

	Merged District-Funds Promised Vs. Released			
	2022-2023	2021-2022	2020-2021	2019-2020
Funds Pledged	Rs 115.2 billion	Rs 129.7 billion	Rs 121.1 billion	Rs 145.6 billion
Funds Released	Rs 50 billion	Rs 82 billion	Rs 121.1 billion	Rs 97.6 billion

Table 3: Overview of Funds Received by the Merged Districts⁸

The projected financing gaps highlight the challenges faced in meeting the objectives set out for the region's development. Addressing gaps is crucial for the timely and effective realization of socio-economic development goals in the region. The relevant authorities must reassess the financial strategies and ensure that the pledged funds are fully disbursed to support the intended development projects and reforms.

The region is rich in natural resources. According to government estimates, Copper reserves in Mohmand and Waziristan alone are estimated to be 25 million tons each.⁹ Chromite, marble, high-grade coal and soap stone is also abundant in the region.

As the mining sector remains underdeveloped, the livelihood of the locals depends mostly upon construction, marble extraction and agriculture (pine nuts). In the agriculture sector, only 7% of the total area of the NMDs is cultivated. Statistics suggest that wheat and maize production in the NMDs is three times less than its potential.¹⁰

As the tribal districts are rich in natural resources, promoting an indigenous economic ecosystem is more prudent to make the region financially independent. To bring financial independence to the NMDs, a “*Ripple Strategy*” should be adopted. Under this, as a first step, a detailed market assessment of; potential business projects, skilled workforce available to each sector and baseline on market absorption should be carried out. After this, a pilot case study by the government should be conducted in the above discussed sectors such as mining, construction, tourism and agriculture in the “selected district” to bring economic independence to the region.

The government already has an understanding of it, hence, private corporate firms are being facilitated to promote economic prosperity. The rebates and incentives should further be propagated to the masses to attract businesses so that after seeing economic prosperity, a ripple effect is created and other districts follow suit. For this, the following sectors can be considered:-

- Kurram, Parachinar, Kirman, Zairan, Shalozan, KharLachi Fort, Chapri, Terimengal and Koh-e-Sufaid have been identified as potential tourism sites. Foreseeing the potential, the government has already started a pilot study to promote tourism in Kurram. Such projects should be expanded to other sites to generate revenue.¹¹
- District Bannu produces 540 million litres of milk annually.¹² A plan can be devised to install and complete a national or private dairy milk company in Bannu.
- The pine nuts from Waziristan can be used to boost exports. The government should regulate the industry and in partnership with NGOs and INGOs provide training in harvesting, cutting, roasting and processing of the nuts so that wastage is reduced and the nuts can be grown on a wider scale.

Industrial development goes in tandem with skilled workforce and unfortunately, there’s a dearth of skilled workforce in the NMDs. Poor literacy rates and limited access to higher education have hindered workforce development. In 2020, it was estimated that only 3000 students were enrolled in different technical and vocational training institutes of the merged areas.¹³

	Males	Females	Total	Males	Females	Total
Technical	9	0	9	830	0	830
Vocational	13	39	52	1363	1228	2591
Total	22	39	61	2193	1228	3421

Table 4: TVET Institutions in Merged Areas¹⁴

As highlighted in the tribal decade strategy, to meet the growing demands, industries currently rely on the labour force from KP and Punjab. Almost 34% of employees in the marble sector are not indigenous to the NMDs and this import of labour has proven to be costlier.¹⁵ Therefore, a two-prong strategy should be adopted focusing both on industrial growth and skills development simultaneously, with a special focus on computing and technology. A model similar to the “Punjab Skill Development Fund” can be adopted to promote the skills development of locals in the NMDs. Moreover, to attract investment, it is important to ensure that the trust and confidence of the local and foreign investors is established through a stable security environment.

Weak Governance

Despite suggestions in the report, a transitory body could not be formed to oversee the implementation of the merger.¹⁶ While the FATA secretariat was abolished, the Home and Tribal Affairs Department was given the task of executing the reforms without providing it with additional resources. Currently, the department is severely understaffed and finds it challenging to manage the law and order issues of the NMDs.

When it comes to data on merged districts, the Home and Tribal Affairs Department does not seem to possess a central repository due to which there appears to be an overall confusion about the status of the merger. To further aggravate the situation, the governing bodies in the NMDs function without baseline data and have no clearly defined roles. This is evident from the fact that the Deputy Commissioners (DCs) have been informally tasked to perform the duties of political agents. The poor capacity of the KP government to shoulder the merger has added to its slow progress and the need for a transitory body has further exacerbated the situation. Since the KP government is under-resourced and faces severe budgetary constraints, it is advised that a transitory body should be tasked to oversee the merger.

As suggested in the committee's report, to oversee reforms, a cabinet-level committee should be formed under the Directorate of Transition and Reforms (DTR). The transitory body should comprise of officials and experts having experience and knowledge of the local cultural and political sensitivities. The implementation of the merger will be carried out directly by the Directorate which will also provide technical assistance to relevant institutions/departments in all sectors/areas relevant to reform intervention.

Good coordination is the hallmark of strong governance. Currently, there needs to be stronger coordination between departments, particularly the judiciary, police and district administration, to ensure smooth sharing of information on the progress of reforms. An additional data unit should be formed at the Home and Tribal Affairs Department to ensure that updated digitized data in coordination with DTR is maintained and shared between various stakeholders, so that, all provincial departments remain on the same page. Moreover, the transition period should be extended to another 10 years to build the capacity of existing institutions.

Fragile Security Situation

A major contributing factor to the deteriorating security of the NMDs has been the situation in Afghanistan. According to a report by the Pakistan Institute for Conflict and Security Studies (PICSS), the first half of 2023 witnessed an increase of 18% in incidents related to terrorism.¹⁷ As compared to the rest of the country, KP has been the hardest hit by the fresh wave of militancy with tribal districts seeing an overall increase of 54% in terrorism with 74 incidents reported in the first half of 2023.¹⁸

In the wake of a worsening security situation, residents of the NMDs have often expressed mistrust towards the state on account of the government's alleged policy of "favourites". This mistrust stems from decades of underdevelopment in the region and the inability of the government to fulfil its pledges, and this, has been further aggravated by a deteriorating security situation. Therefore, to improve the security of the region, it has become significant that a calibrated and calculated use of force against hostile entities is used with a strict policy of no dialogue. This will help bridge the trust deficit between the locals and the state. Through trade, security can be guaranteed. Keeping this in view, Pakistan should work towards building trade ties with Afghanistan while maintaining distance from its internal matters.

The 2016 FATA Reforms Committee report recommended security reforms, including integrating the Levis and Khasadar forces into the police. Currently, the region operates under a mix of laws and procedures (see Annex A). The integration of the Khasadars and levies into the police force was done without a filtration process and no strict recruitment standards were followed. As a result of which, the police force of the tribal districts is largely ignorant of the criminal laws and procedures, leaving the Levis and Khasadars without essential policing skills. According to estimates only 400 personnel are eligible to undergo police courses.¹⁹ This has impeded the service delivery and operational capacity of the force. Due to lack of incentives, KP police force is reluctant to perform duties in the NMDs and to make matters worse, the officer cadre of the force in the region barely exists.

While work is underway to improve the quality of the police, much more still needs to be done. The recruitment procedure should be based on standard principles of merit. Moreover, political interference in the induction and transfer of personnel, should also be minimized. In a phase-wise strategy, an alternate security paradigm needs to be introduced under which, the armed forces hand over the security apparatus of the region to FC and the police with the armed forces deployed in the border areas only.

Keeping in view the security challenges of the region and the deficiencies of the force, basic, intermediate and advanced police training programs should be devised so that the police personnel are better versed in procedures and laws of policing. As an incentive to work in the NMDs, the police officers should be given a pay raise of 20% as compared to serving elsewhere in the province.

Instead of dealing with each issue separately, a parallel inclusivity and security strategy is suggested which simultaneously deals with capacity building and structural reforms of the law enforcement agencies while ensuring community inclusion²⁰.

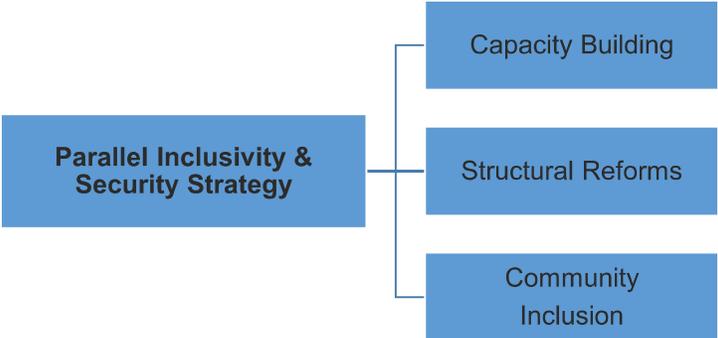


Figure 3: Parallel Inclusivity & Security Strategy

Under capacity building, the focus should be on the digitization of data, workforce development, adopting modern policing methods, hiring of women in the force and establishing new police stations, prisons and specialized units. In parallel, structural reforms should also be carried out to ensure merit based hiring and promotion structure, incentivizing the delivery of services, reducing political interference and updating the police training curriculum. To enhance community participation, the locals should be made more aware of criminal laws and policing procedures. This will ensure that the force is well-versed in modern policing techniques, promote inclusion of women and bridge the trust deficit between the community and the law enforcing agencies, thus improving the overall security environment of the region.

Weak Justice System

For centuries, the locals have adhered to the traditional Jirga system as a law-enforcing institution. Under the system, a council of elders settle disputes following local culture and laws. The new judicial setup has therefore been a challenge for the locals due to the; high costs attached to our legal system, low access to evidence and records, poor understanding of the Pakistan Penal Code (PPC) and Code of Criminal Procedure (CCP) and the possible loopholes in the overall justice system.

Given the challenges surrounding the country's justice system, it would be farfetched to expect from the locals to directly transition to the country's judicial setup, especially when the courts themselves are reluctant to perform their duties in the region. Currently, due to a deteriorating security situation, the district courts are performing their duties in the following regions:-

- Khyber at Federal Judicial Complex in Hayatabad
- Bajaur at Timergara in Lower Dir
- Kurram at Thall in Hangu district
- South Waziristan at Tank
- Orakzai at Hangu
- Mohmand at Shabqadar and Charsadda
- North Waziristan at Bannu

Under FATA reforms, a very comprehensive strategy called the Alternate Dispute Resolution (ADR) 2020 had been devised. Its purpose was to complement the existing legal system and formalize the Jirga system.

The implementation of ADR (See Annex B) has been limited, primarily due to judges and DCs lacking a proper understanding of the system. Additionally, the frequent removal of "saliseen" (mediators with the required qualifications, appointed for a three-year term) often leads to conflicts among the stakeholders involved.

Since the locals are unaware of the country's legal procedures, the already existing ADR will help them transition to the country's civil judicial setup. The judges and the DCs should be made well informed in the system of ADR so that confusion surrounding it can be addressed. As ADR continues to function, infrastructure for local courts should be established in the district and sub-divisional headquarters in the districts. Judges and staff performing their duties in the NMDs should be incentivized and offered a pay package 20% higher than the rest of the province.

Low Human Development Index (HDI)

HDI development in the region has been below the rest of the province. The per capita income of the region stands at a meagre \$250/year, thus indicating that 60% of the population lives below the national poverty line.²¹

The education statistics of FATA are much lower than the rest of the country's with an average literacy rate of 33.3%, as opposed to the national average of 58%.²² The male adult literacy rate in FATA stands at 49.7% while the female rate is a meagre 12.7%.²³ The details of the region's education statistics have been highlighted in Figure. 4 and Figure. 5.

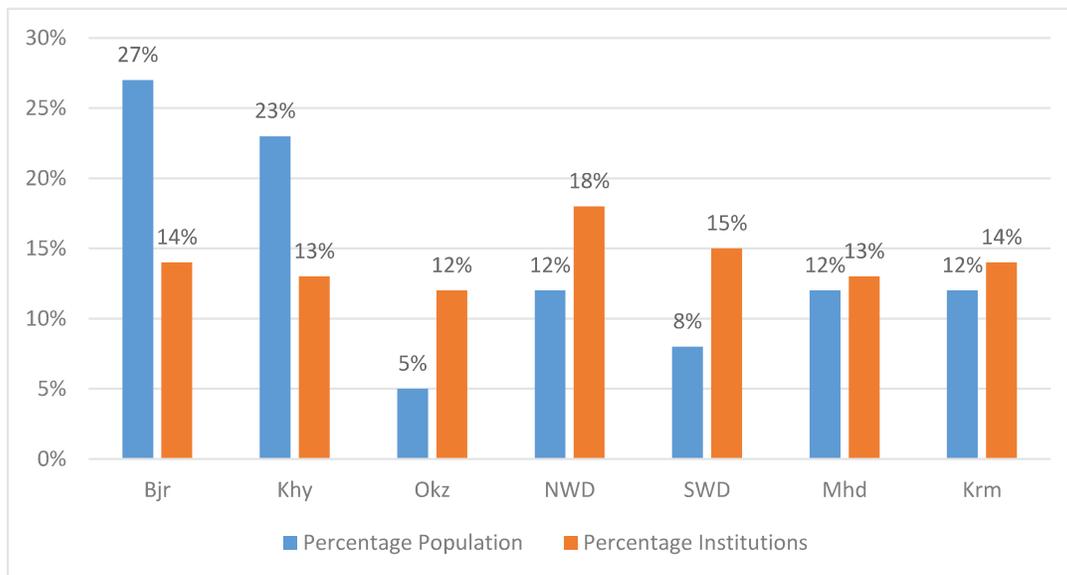


Figure 4: Elementary and Secondary Education in the NMDs

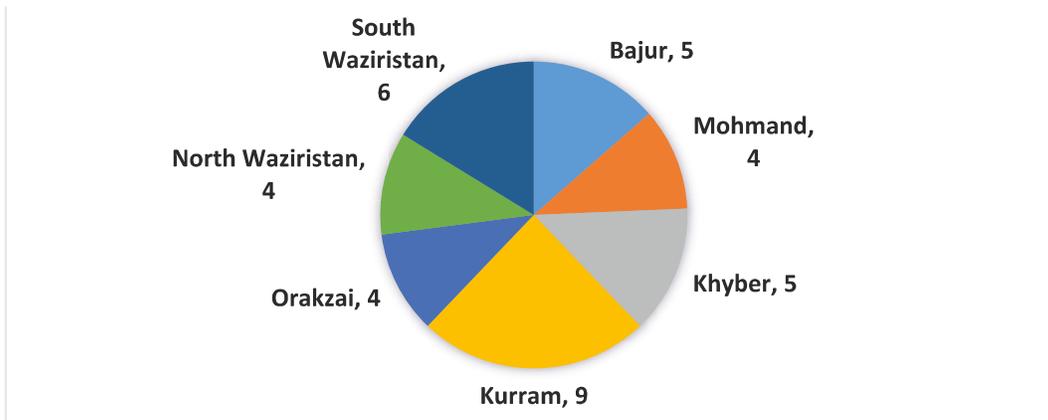


Figure 5: Degree Colleges in the NMDs

The main contributing factors to the region’s low literacy rate are poverty, lack of schools, absence of teachers from schools during working hours and a deteriorating security situation. Healthcare statistics of FATA present an abysmal picture as the number of health facilities in the NMDs continues to remain below the rest of the province. Due to rugged terrain, access to healthcare has always been a formidable challenge.

The average distance between agency headquarters hospitals and a household is 16.3 km.²⁴ This has made healthcare inaccessible for the local population. As of now, in the NMDs, there are 7 agency hospitals, 4 tehsil headquarters hospitals, 11 rural health centres and 174 basic health units, thus making the medical facilities insufficient. Statistics show that there is 1 doctor/6000 people, 1 nurse/19000 people and 1 bed/3000 people available to the locals.²⁵ The number of stillbirths attended by skilled health personnel in FATA stands at 29.5%, far below the national average of 86%.²⁶ The maternal mortality ratio of FATA stands at 395 per 100,000 compared to 275 for KP.²⁷

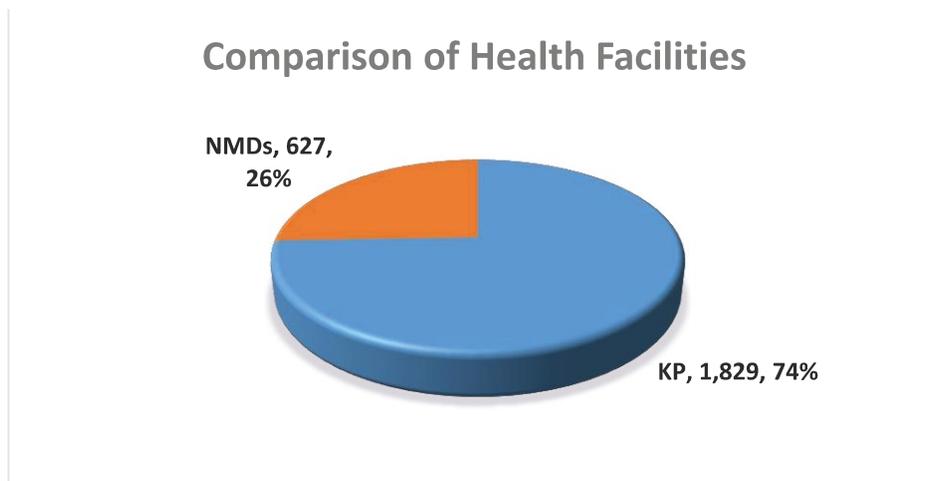


Figure 6: Health facilities in the NMDs vs. KP

In many places, it has been observed that the infrastructure exists in the region but there are no skilled individuals to perform their respective duties. It is therefore recommended that the government shifts its focus from infrastructural development to the development of HDI as this will not only improve the human resource but will also help the locals in integrating with the mainland. To further aid development, a phase-wise strategy in the education and health sectors should be adopted.

Education Sector			
Duration	Key Areas	Funding	Targeted Results
Short-Term	-Vocational training of individuals based on industrial needs	NGOs and INGOs	-Produce skilled workers
Medium-Term	-Open vocational training centres with separate educational facilities for boys and girls -Provide free textbooks -Biometric attendance of teaching faculty across all educational institutions -Universities to bear 75% of the tuition fee of students -Incentives for female education -Outsource schools to the private sector	Federal and Provincial Government, INGO and NGOs	-Have a higher school enrollment rate and reduce early dropout rates -Trained teachers so that the education statistics are at par with other areas of the country
Long-Term	-Access to high-speed broadband -Establish degree colleges for both boys and girls across each of the districts -Conduct regular teachers training programs - Hire teaching staff at a package 20% higher than the rest of the province -Periodic revision of curriculum -Female students scholarship program covering 75% of the fee -Biometric attendance of teaching faculty across all educational institutions -Promote public-private partnership -Introduce STEM education in schools and madrassas -Universities to bear 35% of the tuition fee	Provincial Government	-Increase the overall literacy rate of the region -Increase female literacy rate -Produce skilled labour -Have a more updated and improved curriculum -Have a local teaching staff so that teaching positions do not remain vacant -School adapts to the local learning environment and resources -Monitor the progress of schools -Staff hiring should be merit-based

Table 5: Strategy for Reforms in the Education Sector²⁸

Health Sector			
Duration	Key Areas	Funding	Targeted Results
Short-Term	Open mobile hospitals/dispensaries	NGOs and INGOs	-Easy access to quality primary healthcare services
Medium-Term	<ul style="list-style-type: none"> -Awareness drives through mosques, jirgas and tribal elders -Train midwives/lady health workers -Provide medicines and vaccines at a lower cost -Carryout vaccination drives -Provide ambulance services for expectant mothers -Expand Sehat card to NMDs 	Federal and Provincial Government, INGO and NGOs	- Easy access to quality primary, secondary and tertiary healthcare services
Long-Term	<ul style="list-style-type: none"> - Access to high-speed broadband -Reduce medical fees and the cost of medicines -Encourage private medical investment -Ambulance service for expectant mothers -Carry out vaccination drives -Hire permanent male and female medical staff at a package 20% higher than the rest of the province -Additional scholarships for medical students (doctors and nurses) -Regular training programs for the medical staff -Biometric attendance of medical staff across all medical facilities -Digitize medical record-keeping -Mobile medical facilities for areas that are far-flung and difficult to access -Establish local nursing schools in each district affiliated with a provincial teaching hospital 	Provincial Government	<ul style="list-style-type: none"> - Easy access to quality primary, secondary and tertiary healthcare services -Improve female health -Reduce maternal mortality rate -Provide affordable essential medicines and vaccines for all -Improve the overall health facilities of the NMDs

Table 6: Strategy for Reforms in the Health Sector²⁹

The government cannot solely bear the burden of the socio-economic uplift of the region. As of now, 25 NGOs are functioning in the NMDs, out of which 5 are international and 20 local. An additional 22 NGOs are still awaiting clearance to start their work in the area. It is advised

that the government further promotes collaboration with the private sector for the development of HDI in the region.

Land Disputes

The tribals had been adhering to informal land settlements and used local knowledge passed on through generations for land demarcation. This resulted in improper land record keeping which often led to the creation of informal land boundaries and disputed territorial claims. One can therefore infer, that the land disputes stemming from; illegal occupation by government institutions, poor demarcation of boundaries, undocumented ownership and communal ownership of land have led to prolonged violent disputes and slow economic development.

Since land revenue and records are vital to economic development, in 2019, the land laws were extended to the NMDs and in 2020, the KP revenue department outlined a project for land distribution but so far not much has been done to ensure its implementation.³⁰

It has therefore become important that Geographic Information System (GIS) is used for land demarcation as it will give the authorities digitized maps. The digital records with precise geographical coordinates will prove to be more accurate for the demarcation of boundaries. A computerized land record should be maintained for ease of accessibility, transparency, and protection of property rights.³¹

For efficient digitization of land records, a pilot study was conducted and Service Delivery Centers (SDC) were established in Alamsher and Dingeela villages of Kurram agency.³² Since GIS mapping of the region is almost complete, with the help of local elders and district administration, the data gathered should be used to demarcate land boundaries. Moreover, SDC centres should be established across all districts.³³

Perception Building/Lack of Communication

The government had made uncertain promises to the residents of the NMDs about the objectives of the merger. Due to lack of capacity, poor security conditions and a dearth of finances, the government was unable to deliver on those, which, deepened mistrust between the state and the local community. For greater acceptability, an effective narrative surrounding the dividends of the merger should be built to counter the “anti-merger elements”. For this, an enhanced role of the elders must be sought while promoting community participation. This will make it easier for the locals to comprehend and accept the changing environment.

The local government and line departments have a vital role in winning hearts and minds. Therefore, to develop trust between the local population and the state, the local government should be fully empowered to execute projects so that the people of NMDs find a sense of ownership in the decision-making process. This will prove to be the most significant step in the sustainability of reforms.

Conclusion

FATA reforms aimed at installing a new mode of governance with high expectations of outcomes. Unfortunately, the merger was rushed without prior preparation on capacity building of institutions or fostering the confidence of locals. This, coupled with ongoing security challenges, has exacerbated frustration within the community, leading to deep-seated grievances and strained relations between the state and the local population.

Despite voices from various segments questioning the viability of the merger, the majority of the local population is still in favour of reforms and its reversal is not an option. The locals still hope for change and this is evident from the survey conducted by the FATA Research Centre in 2016, which showed, that 68% of the participants supported the abolishment of the controversial FCR while 74% of the participants favoured merging FATA with KP.³⁴

FATA and PATA share similar political, social, geographical, and cultural characteristics. Learning from its follies in PATA, the government must address these grievances to prevent a growing power vacuum that hostile forces could exploit.

To overcome the challenges which the region faces, there is a dire need to formulate a phase-wise strategy which focuses on capacity-building of institutions. Moreover, bringing financial independence to the region will help consolidate the gains of the merger through social stability. Moreover, community participation is crucial to rebuilding trust in state institutions.

To reap maximum benefits, it is of utmost significance that the decision to merge is not politicized, otherwise, the situation in the NMDs will continue to worsen with no immediate solution in sight. In such a scenario, any plan, no matter how comprehensive is bound to fail.

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LAWS & POLICIES GOVERNING THE NEWLY MERGED DISTRICTS

Laws	Description
Pakistan Penal Code 1860	Contains Provisions for all offences charged within Pakistan, including acts/offences committed outside Pakistan, and covers all aspects of criminal law.
Criminal Procedure Code 1898	Covers substantive procedural legislation for the administration of criminal law in Pakistan, including powers and responsibilities assigned to the police officers in the administration of justice and in maintaining the rule of law.
KP Police Act 2017	Serves as the primary instrument guiding police organisation and operations in KP. The Act also provides for the establishment of Dispute Resolution Councils (DRC) to deliver justice in a fair and amicable manner.
KP Police Rules 1975 (1024 Amendments)	Contains rules to hear cases of police misconduct by competent authorities and a range of punishments for those found guilty of misconduct.
KP Levies Force Act 2019	Reconstituted the former Levies force as KP Levies Force under the KP Police and the provincial government
KP Khasadar Force Act 2019	Reconstituted the former Khasadar force under the KP Police and the provincial government.
KP Special Police Officers (Regulation of Services) Act 2019	Allows for the regularisation of services of KP Special Police Officers appointed on a contract or on a fixed basic salary.
KP Probation and Parole Bill 2021	Allows competent and established courts to pass probation sentences.
Prison Act 1984	Mandates provincial governments to provide accommodation and healthcare to prisoners, and not to exceed the maximum holding capacity of prisons.
KP Prisons Act (Amendment) 2020	The 2020 amendments to the Act mandates the regulation of prison industries, skills development and vocational training of prisoners.
KP Alternate Dispute Resolution Act 2020 Panel of Saliseen Council	Addresses processes for resolving civil and criminal disputes outside the jurisdiction of courts. The Act provides for the establishment of a Panel of Saliseen (Conciliators) for amicable settlement of disputes
KP Domestic Violence Against Women (Preservation and Protection) Act 2021	Prohibits and makes punishable, any action of violence against any individual (compalinee) in a domestic relationship.
KP Elimination of Custom of Ghag Act 2013	Prohibits the traditional practice of Ghag.

**THE KHYBER PAKHTUNKHWA ALTERNATE DISPUTE
RESOLUTION ACT, 2020
(KHYBER PAKHTUNKHWA ACT NO. XLVIII OF 2020)**

1. This Act may be called the Khyber Pakhtunkhwa Alternate Dispute Resolution Act, 2020:-
 - a. It shall extend to whole of the Khyber Pakhtunkhwa.
 - b. It shall come into force on such date as the Department may, by notification in the official Gazette, appoint and different dates may be so appointed for different areas of the Province.
2. **Definitions** - In this Act, unless there is anything repugnant in the subject or context:-
 - a. “Alternate Dispute Resolution” means a process in which parties agree to resolve a
 - b. Dispute, other than through formal adjudication by courts, and includes but not limited to negotiations, mediation, conciliation and evaluation;
 - c. “Civil dispute” means a Civil dispute as referred to the Schedule;
 - d. “Code” means the Code of Criminal Procedure, 1898 (V of 1898);
 - e. “Court” means a criminal court or a civil court having original jurisdiction under any law for the time being in force;
 - f. “Criminal dispute” means a Criminal dispute as referred to in section 4 of this Act
 - g. “Department” means the Home and Tribal Affairs Department of Government;
 - h. “Dispute” means a Civil or Criminal dispute;
 - i. “Saliseen (نالسیون) Selection Committee” means the Saliseen (نالسیون) Selection Committee constituted under sub-section (2) of section 7 of this Act;
 - j. “Government” means the Government of Khyber Pakhtunkhwa;
 - k. “Prescribed” means prescribed by rules;
 - l. “Referring authority” means the court or any other referring authority as provided in sub-section (2) of sections 3 and 4 of this Act, respectively;
 - m. “rules” mean the rules made under this Act;
 - n. “Salis (نالیث)” or “Saliseen (نالسیون)” means a person or panel of persons notified as Salis (نالیث) or Saliseen (نالسیون) under this Act;
 - o. “Schedule” means a Schedule appended to this Act; and
 - p. “Settlement” means an agreement reached between the parties as a result of successful Alternate Dispute Resolution.

3. **Reference in Civil disputes** - (1) The court, after appearance of all parties, as soon as possible, may refer a Civil dispute for Alternate Dispute Resolution except, where:-
 - a. Any of the parties to the dispute do not agree for Alternate Dispute Resolution;
 - b. The court, having regard to the facts and circumstances of the case, is satisfied that there is no possibility of resolution of the dispute through Alternate Dispute Resolution; or
 - c. An intricate question of law or facts is involved in the case which cannot otherwise be resolved through Alternate Dispute Resolution.
4. Without limiting the powers of the court under sub-section (1), the Deputy Commissioner or any other officer nominated by Government may also refer a civil dispute for Alternate Dispute Resolution.
5. Before referral of a Civil dispute to Alternate Dispute Resolution under sub-sections (1) and (2), the referring authority may frame issues with the consent of the parties, for facilitating the settlement.
6. Provided that the Saliseen (سالسین), with the consent of the parties, frame additional issues if so required during the course of Alternate Dispute Resolution proceedings.
7. In every Civil dispute where a reference is made for Alternate Dispute Resolution, the referring authority shall provide a time table for completion of Alternate Dispute Resolution proceedings not exceeding three months.
8. Provided that the referring authority, on the application of both the parties, may extend the time granted for resolution of the case through Alternate Dispute Resolution.
9. Provided further that the total time, granted for completion of Alternate Dispute Resolution proceedings, shall not exceed six months in any case.
10. The trial or final adjudication of a case, referred for Alternate Dispute Resolution, shall be postponed till the completion of the time allotted for under sub-section (3).
11. The referring authority or the Saliseen (سالسین), in order to prevent the Civil dispute from further aggression or to maintain status quo, if deem appropriate, may issue interim injunction.
12. **Reference in Criminal disputes** - (1) In all compoundable offences under section 345 of the Code, the court may, with the consent of parties, refer the dispute for Alternate Dispute Resolution:-

Explanation: The State shall be deemed to be a party for the purpose of Alternate Dispute Resolution under this section:-

- a. It shall be lawful for the Deputy Commissioner or the Dispute Resolution Council constituted under the Khyber Pakhtunkhwa Police Act, 2017 (Khyber Pakhtunkhwa Act No. II of 2017), that before a court has taken cognizance of an offence under section 345 of the Code, may also refer a dispute under section 345 of the Code for Alternate Dispute Resolution.
- b. In every compoundable offence, where a reference is made for Alternate Dispute Resolution under sub-sections (1) and (2), the referring authority shall provide a time for completion of Alternate Dispute Resolution proceedings not exceeding three months.

- c. Provided that the referring authority may, on the application of both the parties, extend the time granted for resolution of the Criminal dispute through Alternate Dispute Resolution.
- d. Provided further that the total time, granted for completion of Alternate Dispute Resolution proceedings, shall not exceed six months in any case.
- e. If the offence is compounded, the Saliseen (نالیسن) shall submit a report in this respect in the court duly witnessed and signed by them and by the persons authorized to compound the offence and the court shall pass order and the accused shall be discharged.
- f. If the efforts of the Saliseen (نالیسن) for compounding the offence fail, the court shall proceed with the trial from the stage it was referred to the Saliseen (نالیسن).
- g. If the parties have themselves resorted to Alternate Dispute Resolution and the offence is compounded in terms of section 345 of the Code, they may make application to the court in terms thereof. If the court is satisfied that the parties have voluntarily compounded the offence and the document recording their agreement has been duly witnessed and signed by them, the court shall pass order accordingly and the accused shall be discharged.
- h. Proceeding for compoundable offences under section 345 of the Code shall *mutatis mutandis* apply to the Saliseen (نالیسن) acting under this section.
- i. The Salis (نالیس) or the Saliseen (نالیسن), as the case may be, in order to prevent the Criminal dispute from further aggression or to maintain status quo, may require the parties to arrange such amount of surety and arrange such number of witnesses, as it may deem appropriate.

13. Power to record evidence during postponement - (1) Nothing in sections 3 or 4 shall prohibit or restrain the court from recording evidence which is likely to become unavailable due to postponement of trial.

- a. The court may order the recording of evidence of such person on its own or on the application of any party to the trial including the public prosecutor.

14. Power to refer a case to Alternate Dispute Resolution at any time - (1) Notwithstanding anything contained in this Act, the court may, on the application of the parties to the dispute before it, refer any civil or criminal matter under sections 3 and 4, for Alternate Dispute Resolution at any stage of the proceedings.

Where a referral is made under sub - section (1), the court may if it deems fit:-

- a. A time period for the completion of Alternate Dispute Resolution; and

15. Postpone the trial during the period given for the completion of Alternate Dispute Resolution Proceedings. Composition of Saliseen (نالیسن) Selection Committee - (1) There shall be a Saliseen (نالیسن) Selection Committee at divisional level, which shall approve and notify for each district, a panel of Saliseen (نالیسن) on the recommendation of the concerned district administration. The Saliseen (نالیسن) Selection Committee shall consist of:-

- a. Commissioner of the Division (Chairman)
- b. Regional Police Officer; (Member)
- c. Senior Civil Judge (Admin) of the concerned District; (Member)
- d. A representative of Law Enforcement Agencies (Member)
- e. Regional Director Prosecution (Member)
- f. Representative of Special Branch; (Member) and
- g. Deputy Commissioner of District concerned. (Member/Secretary)

- I. The Saliseen (نالیسن) Selection Committee may co-opt any other person as co-opted member.
- II. The Saliseen (نالیسن) shall be selected in the prescribed manner from amongst the lawyers with at least seven years of experience, retired Judicial Officers, retired Civil Servants, Ulema, notables of the locality, experts or such other persons of repute and integrity having such qualification and experience as may be prescribed, for a period of three years.
- III. The Saliseen (نالیسن) Selection Committee may have its meeting at such place as the Chairman may deem appropriate.
- IV. The Saliseen (نالیسن) Selection Committee may add or remove any Salis (نالیس), in the prescribed manner, from the panel of Saliseen (نالیسن) with simple majority, on its own accord or on the recommendation of district administration:
- V. Provided that the Saliseen (نالیسن) Selection Committee may in writing record reasons while removing any Salis (نالیس).
- VI. The Saliseen (نالیسن) Selection Committee, while selecting the panel of Saliseen (نالیسن), may require any information from any agency or office of the Government, as deemed appropriate.
- VII. The Department shall arrange necessary trainings for the Saliseen (نالیسن) in the Judicial Academy or any other accredited Institute.

16. **Nomination** - While referring the matter for Alternate Dispute Resolution, the referring authority, with the consent of the parties, may either nominate the whole panel of Saliseen (نالیسن) for resolution of the dispute or may nominate one or more Salis (نالیس) from amongst the panel of Saliseen (نالیسن), for resolution of dispute through Alternate Dispute Resolution: Provided that the referring authority may, where it deems appropriate, also nominate:-

- a. Panel of Saliseen (نالیسن) from any other district; or
- b. Committee of Saliseen (نالیسن), consisting of Salis (نالیس) or Saliseen (نالیسن) of the district, where the dispute arises, and the Salis (نالیس) or Saliseen (نالیسن) of any other district.

17. **Appearance of parties** - Upon referring the matter for Alternate Dispute Resolution, the referring authority shall direct the parties to appear before the Saliseen (سالسین) on the date and time fixed by the referring authority.
18. **Submission to court** - A dispute referred for Alternate Dispute Resolution shall be submitted to the court in the prescribed format on the completion of Alternate Dispute Resolution proceedings or on the expiry of the time provided under sections 3 or 4 of this Act, whichever is earlier.
19. **Confidentiality** - Notwithstanding anything contained in any other law for the time being in force, the Saliseen (سالسین) and the parties taking part in the Alternate Dispute Resolution proceedings shall keep all matters confidential relating to such proceedings.
20. **Meaningful offer** - Where a meaningful offer is made by a party to a Civil dispute and is rejected by the other, the party which rejects the offer shall not be entitled to costs for the suit and the other party shall be entitled to costs:-
Explanation: A meaningful offer is an offer which is substantially the same as the decree or order of the court. For authorized agent, the authorization should be in writing.
- a. An attorney who has acted for a party in an Alternate Dispute Resolution proceedings shall not represent another party in the case with regard to the same dispute.
 - b. Any party who fails to attend or who requests an adjournment in any Alternate Dispute Resolution proceedings or fails to comply with a deadline stipulated either by the referring authority or the Saliseen (سالسین), as the case may be, or does any other act which has the effect of delaying the Alternate Dispute Resolution proceedings, shall be liable to pay costs to the other party as may be determined by the referring authority or Saliseen (سالسین), as the case may be.
21. **Failure of Alternate Dispute Resolution** - Where a dispute has not been resolved or cannot be resolved through Alternate Dispute Resolution on referral, the court shall proceed to adjudicate the dispute or remaining dispute in accordance with law.
22. **Settlement** - If as a result of the Alternate Dispute Resolution a settlement is reached between the parties, the Saliseen (سالسین) shall record such settlement, duly witnessed and signed by them and by the parties or their duly authorized representatives or attorneys and submit it to the court which shall pronounce judgment and pass decree in terms of the settlement.
- a. If the settlement relates only to part of the dispute, the court shall pass order in terms of such settlement and shall proceed to adjudicate upon the remaining part.
 - b. The Saliseen (سالسین) on resolution of the dispute shall render a written award, duly signed by them and by the parties or their duly authorized representatives or attorneys, as the case may be, and submit it to the court which shall pronounce the judgment and pass decree in terms of the award.

- c. If the award relates only to part of the dispute, the court shall pass order in terms of such award and shall proceed to adjudicate upon the remaining part.
- d. Where the outcome of Alternate Dispute Resolution is not clear, the court may ask the Saliseen (سالسین) to provide the requisite clarification.
23. **Execution of an order or a decree** - Where an order or a decree is passed by a court following Alternate Dispute Resolution, it shall be executed in the manner as may be prescribed and until so prescribed, it shall be executable in accordance with the procedure provided for in any other relevant law and rules for the time being in force.
24. **Appeal and revision barred** - No revision or appeal shall lie from the decree or order of the court under this Act.
25. **Saliseen (سالسین) not to act as representative of parties to an Alternate Dispute Resolution in subsequent proceedings** - The Salis (سالس) concerned shall not act as a representative or attorney of any party to the Alternate Dispute Resolution, in any subsequent proceedings with respect to a dispute that is or was the subject-matter of an Alternate Dispute Resolution.
26. **Proceedings under this Act to be privileged and not admissible in evidence** - save as provided in this Act, the proceedings before the Saliseen (سالسین) shall be privileged and shall not be admissible in evidence before any court without consent of the parties and the Salis (سالس) shall not be required to appear as a witness or otherwise in any arbitral or judicial proceedings with respect to a dispute that is or was the subject-matter of an Alternate Dispute Resolution, provided that the final settlement or award between the parties, as the case may be, under this Act, shall be admissible in evidence in any subsequent proceedings between them relating to the same subject-matter, wholly or partly.
27. **Indemnity** - No legal proceedings shall lie against a Salis (سالس) or any other person or official associated in the Alternate Dispute Resolution process for any act done or omitted to be done in good faith in the course of the performance of his functions, in reference to such Alternate Dispute Resolution.
28. **Application of certain laws** - Subject to the provisions of this Act the Oaths Act, 1873 (X of 1873) and the rules made thereunder shall apply *mutatis mutandis* to the proceedings under this Act:-
- a. Save as provided in this Act, the Qanun-e-Shahadat Order, 1984 (*P.O. No. 10 of 1984*) shall not apply to the Alternate Dispute Resolution proceedings under this Act:
- b. Provided that the Saliseen (سالسین) may adhere to principles of evidence contained in the Qanun-e-Shahadat Order, 1984.
29. **Overriding effect** - The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force.

30. **Cases pending in appeal or revision** - The provision of this Act shall, with the consent of the parties, apply *mutatis mutandis* to a dispute pending adjudication in an appeal or revision.

31. **Code of Conduct:-**

- a. The Department shall specify a Code of Conduct for Saliseen (نالسیون).
- b. Saliseen (نالسیون) shall comply with and act in accordance with the provisions of the Code of Conduct, as so specified under sub-section (1).
- c. A Salis (نالٹ), who commits a violation of the Code of Conduct shall be removed from the panel of Saliseen (نالسیون) by the Saliseen (نالسیون) Selection Committee.

32. **Costs and fees of Alternate Dispute Resolution** - The costs and fees of the Alternate Dispute Resolution proceeding, if required, shall be borne by the parties in such proportion as may be mutually agreed upon by them, failing which it shall be determined by the rules made under this Act.

33. **Power to make rules** - Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

34. **Power to amend the Schedule** - Government may amend the Schedule by adding or amending any entry therein or omitting any entry therefrom.

35. **Removal of difficulty** - If any difficulty arises in giving effect to any provision of this Act, Government may, within two years of the commencement of this Act, make such order not inconsistent with the provisions of this Act as may be necessary to remove the difficulty.

36. **Substitution of section 73 of Khyber Pakhtunkhwa Act No. II of 2017.** In the Khyber Pakhtunkhwa Police Act, 2017 (Khyber Pakhtunkhwa Act No. II of 2017), for section 73, the following shall be substituted, namely:-

- a. Dispute Resolution Council - The Dispute Resolution Council, constituted by the Provincial Police Officer, may refer Criminal dispute under section 345 of the Code to Saliseen (نالسیون) notified under the Khyber Pakhtunkhwa Alternate Dispute Resolution Act, 2020.”

37. **Repeal and savings** - Subject to section 23 of this Act, the following sections of laws and rules are hereby repealed to the extent of the area or areas to which this Act is applied, namely:-

- a. Section 89-A of the Code of Civil Procedure, 1908 (*V of 1908*) and the rules made in pursuance of this section; and
- b. Sections 29(1)(b) and 118A of the Khyber Pakhtunkhwa Local Government Act, 2013 (Khyber Pakhtunkhwa Act No. XXVIII of 2013).

Notwithstanding the repeal of the aforesaid laws, all actions taken, matters decided, orders issued and decrees passed etc. under the repealed section, shall be deemed to have been taken, decided, issued and passed under this Act.

38. **Schedule** [see section 3(1)]:-

- a. A dispute between a landlord and tenant.
- b. Dispute involving pre-emption of Land.
- c. Disputes relating to possession of immovable property.
- d. Family disputes including guardianship and custody of minor children.
- e. Dispute arising out of enforcement of commercial transactions.
- f. Suits for specific performance of contracts.
- g. Disputes arising out of negotiable instruments under the Negotiable Instruments Act, 1881 (XXVI of 1881).
- h. Dispute for recovery of movable property or value thereof.
- i. Dispute for separate possession of joint immovable property through partition or otherwise including claims for mesne profits.
- j. Disputes for rendition of accounts of joint property.
- k. Disputes to remove nuisance.
- l. Disputes involving recovery of money.
- m. Cases relating to inheritance including declaration and succession.
- n. Disputes relating to ownership of immovable property.
- o. Disputes relating to professional negligence under Tort and Consumer Protection.
- p. Suits for redemption of mortgaged property under the Transfer of Property Act, 1882 (IV of 1882).
- q. Cases relating to Waqf and Trusts under the relevant laws for the time being in force.
- r. Any other matter under the law not falling in the Schedule but agreed to by the parties for settlement under this



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